

SURREY COUNTY COUNCIL**CABINET****DATE: 5 FEBRUARY 2013****REPORT OF: MR JOHN FUREY, CABINET MEMBER FOR TRANSPORT AND ENVIRONMENT****LEAD OFFICER: TREVOR PUGH STRATEGIC DIRECTOR ENVIRONMENT & INFRASTRUCTURE****SUBJECT: TACKLING TRAFFIC CONGESTION - INTRODUCTION OF A ROAD WORKS PERMIT SCHEME****SUMMARY OF ISSUE:**

Surrey County Council (SCC) is committed to reducing congestion and disruption caused by road works. To assist in achieving this outcome the authority is proposing the introduction of a permit scheme which would provide an improved alternative to regulating and coordinating road works on Surrey's road network.

RECOMMENDATIONS:

It is recommended that:

1. The report and recommendations of the Task Group on Utilities (attached as Annex 1), including support for the introduction of a Permit Scheme, be considered and a response agreed.
2. Surrey County Council introduces a Permit Scheme as set out in this report subject to a successful consultation outcome and a successful application to the Department for Transport (DfT).
3. Further authorisation on the details of the Permit Scheme be delegated to the Assistant Director Highways in consultation with the Cabinet Member for Environment and Transport.

REASON FOR RECOMMENDATIONS:

In practice there are limited controls available under current legislation for the local authority to control the coordination of road works. The introduction of the Traffic Management Act 2004 (TMA) was intended to give more powers to local authorities to do this and has provided a range of different measures which includes permit schemes. It is recommended that the authority take advantage of the additional powers to introduce a permit scheme under the TMA in order to increase our control of road works. This greater control would also allow for increased integration of utility works with those road works promoted by the Council. The overall aim of the permit scheme being to contribute more effectively to minimising congestion across the whole of the road network in Surrey.

DETAILS:

Introduction

1. It is estimated that currently over 40,000 excavations take place annually in the County to enable various types of road and street works to be carried out. These excavations can cause considerable inconvenience to residents and businesses and substantial delays to traffic. Effective coordination is therefore essential to minimise disruption whilst allowing works promoters the necessary time and space to complete their work.
2. Highway Authorities have a duty to co-ordinate all works on the highway under the New Roads & Street works Act 1991 (NRSWA). Under the current regulations, Statutory Undertakers (SU) are only required to notify the Highway Authority when they need to undertake repairs or improvements to their apparatus. Other than co-ordinate their works with other SUs and the Council's own schemes, the NRSWA provides limited powers to the Council as highway authority to control the way in which the works are completed. For example under a notification process the Council has limited control of when works start and finish, which can also hinder our capability to inspect works in progress, and also limits opportunities to promote integration or joint working.
3. The Traffic Management Act 2004 (TMA) places a new Network Management Duty on all Highway Authorities in England. This Duty is defined in Section 16(1) of the TMA:

'It is the duty of a local traffic authority to manage their road network with a view to achieving, so far as may be reasonably practicable having regard to their other obligations, policies and objective, the following objectives:

- i) Securing the expeditious movement of traffic on the authority's road network; and,*
- ii) Facilitating the expeditious movement of traffic on road networks for which another authority is the traffic authority.'*

Options and Impact

4. Under Part 3 of the Act, highway authorities can apply to the Secretary of State to operate a Permit Scheme as an alternative to the notification system of the NRSWA. Permit schemes differ from existing powers for managing activities on the street in a number of key respects:
 - (i) rather than informing the highway authority of their intentions, SUs will need to book occupation of the highway for specified periods and for a specified purpose;
 - (ii) conditions which impose constraints on the dates and times of activities and the way that work is carried out can be attached to permits by the highway authority;
 - (iii) the highway authority's control over variations to the permit conditions, particularly time extensions, should give a greater incentive to complete activities on time.
5. Under the current legislation there is therefore the opportunity to invoke greater powers to manage works and activities on the highway and so the

Council has two options. To maintain the current process of formal notification or to introduce a permit scheme and apply further powers to improve coordination.

6. Benefits have already been seen from Permit Schemes which are already in operation across London and in Kent County Council (KCC). The report on the first year of operation of the London Permit Scheme (LoPS), which as 'Tranche 1' was operated by 17 London Boroughs and Transport for London (TfL) highlighted the scheme had achieved the following;
 - a. An increase in collaborative working resulting in less 'individual' works being carried out on the network thereby leading to a decrease in network disruption. Over the first year this was reported as a rise in the number of days of disruption saved from 726 days to 1793 days, an increase of 147%.
 - b. An increase in the formal record of works being carried out on the highway network. Reported as an increased discipline amongst Highway Authorities in recording their own works, leading to a 237% increase in formally recorded works, providing more opportunity for collaboration and better public information through the 'Londonworks' website.
 - c. An enhanced reduction in the overall number of works being carried out on the highway network. Reported as a 17% reduction in the volume of works undertaken (compared against a 7% reduction of works in non-permitting London Authorities at that time).
 - d. Better quality of works information available to make considered coordination decisions
 - e. Delivery of a large percentage of the expected benefits for average journey time and journey reliability times. This would include for improvements in journey times following a reduction in disruption on the network.
7. The success of LoPS has seen other Boroughs join the scheme and the final 'Tranche 4' of LoPS will mean that all London Boroughs operate LoPS from March 2013 onwards.
8. The Kent CC Permit Scheme was the first scheme introduced outside of London, commencing shortly after LoPS. Benefits outlined in the first year of operation included;
 - a. A 26% reduction in complaints about 'congestion and Coordination
 - b. A significant reduction in the volume of 'street works enquiries' from the public (The reduction reported as 385 enquiries Jan 2009 compared to 270 enquiries Feb 2011)
 - c. An increase in collaborative working resulting in less 'individual' works being carried out on the network thereby leading to a decrease in network disruption. Reported as in excess of 1500 total number of days saved as a result of collaborative working (monetised benefit to travelling public of c£1m).

- d. A 5% increase in the number of 'first time' permanent reinstatements being carried out by works promoters (75% to 80%). Permanently reinstating on the first visit avoids the necessity to revisit the location to rectify temporary reinstatements. A reduction of repeat visits thereby contributes further to reducing disruption.
 - e. Significant cultural change in respect of pre-planning and coordination of works – especially of Kent CC's own highways works, limiting disruption and providing safer roadworks.
9. A recent Environment and Transport Select Committee Task Group has considered the introduction of a permit scheme as part of a wider overview of utility works. Details of the Task Group's work are set out in paragraphs 17 – 21 below and its final report is attached as Appendix 1. The merits and shortcomings of a permit scheme were explored and the recommendation made, by the Task Group, to endorse the introduction of a permit scheme in Surrey.
 10. Although Highway Authorities are not obliged to introduce a Permit Scheme, if they do the legislation requires permits to be issued for all works on the highway that involve excavation, whether they are road works undertaken by their own contractors or SUs street works. This means that utility works and works promoted by this council will be treated in exactly the same way in terms of coordination and setting conditions.
 11. Under a permit scheme any works promoter who wishes to carry out any registerable activity in a road or street must obtain a Permit from the relevant Permit Authority operating a scheme first. The Permit allows the promoter to carry out the specified activity and will set out the location, start and finish dates, duration and any specific conditions that may be required. The permit scheme does not apply to work promoters that are not statutory authorities (e.g. developers, building firms and domestic drainage companies) and in these cases street works will continue to be applied for through an application for a Street Works Licence under section 50 of NRSWA.
 12. The NRSWA requires highway authorities to administer the works notification system at their own expense, with charges only being applied for inspections, defective reinstatements or over-running works. Although permit schemes are not intended to generate revenue for highway authorities, they are expected to cover their reasonable costs incurred in running the scheme through charging a permit fee. The regulations outline the maximum level at which an authority can set their fees and fees will only apply to utility works. Fees cannot be charged for issuing a permit for a highway authority's own works and neither can the costs involved in issuing permits for our own works be off-set against the fee income received from utility works.
 13. Authorities can elect to operate three types of permit scheme; a 'single' scheme where one authority operates their own scheme in isolation, a 'joint' scheme where two or more authorities agree to operate the same scheme which is administered by one authority only, or a 'common' scheme where two or more authorities operate schemes with the same set of rules, but with each authority administering the scheme for their own area.
 14. Kent CC's scheme is a single scheme, precluding any other authorities from joining it. The London Permit Scheme is a common scheme but the statutory

instrument specifies it is a common scheme for authorities in London (only), precluding any authorities from outside Greater London joining. Any approved permit scheme is designed to suit individual or participating authority's requirements and both schemes have been considered successful in operation as described above.

15. In order to operate a permit scheme the Council must apply to the Department of Transport to do so. The permit scheme will then be established by an individual order in the form of a statutory instrument.
16. In terms of future potential for further control over road and street works a lane rental scheme is an option that will be considered by the Council following the introduction of a permit scheme and assessment of pilot schemes in Kent and London. A lane rental scheme provides a financial incentive for works promoters to make sure their work is carried out in a less disruptive way, for example avoiding works at busy locations at critical times. A lane rental scheme is aimed at reducing network disruption on the most critical parts of the highway network and works alongside a permit scheme. The current legislation requires that the local authority operate a permit scheme prior to considering the introduction of a lane rental scheme. The lane rental option is currently being piloted in Kent & Transport for London (TfL) and the DfT will review the success of these schemes before considering a wider application.

Utilities Task Group

17. The disruption caused by street works carried out by utilities companies on the County's highways is a significant issue for the people of Surrey. Members and residents have frequently expressed concerns that the maintenance works of utilities companies are often conducted without sufficient prior consultation and arrangement with the Council. Furthermore, inspecting and rectifying substandard reinstatement works has a significant cost implication for the Council and issues with traffic disruption and congestion can result from problematic street works.
18. In order to address these concerns, the Environment & Transport Select Committee formed a Task Group of Members to look at the subject of utility company street works in-depth and form a series of recommendations with the aim of improving the co-ordination and quality of work of utilities companies in Surrey. The Task Group also considered proposals to introduce a permit scheme for Surrey, which would be applied to all works on the County's highways. A report detailing the Task Group's findings is attached at **Appendix 1**.
19. The Task Group recommended that:
 1. A clear and accessible internal and external communications policy with regards to the publicising of street works is developed.
 2. The process for monitoring and reporting the quality of street works be made more cost effective and efficient for the County Council, and have greater incentive for utilities companies to complete their works on time and to a high standard.

3. Proposals to introduce a “common” permitting scheme with East Sussex County Council, to coordinate all works on the Surrey County Council highway, be endorsed.
 4. Processes around the planning, monitoring and execution of street works, particularly including areas with special conditions such as Conservation Areas, be made more effective and robust.
20. Specific actions relating to how these recommendations can be implemented effectively are contained within the main report.
 21. The proposal with respect to the introduction of a permit scheme is addressed below. The Cabinet Member’s response to the recommendations will be presented at the meeting.

Proposal

22. The proposal for Surrey County Council is to introduce a permit scheme which has been developed as a common scheme in conjunction with East Sussex County Council (ESCC). The common aspect of the scheme relates to a single set of rules that would apply in running the scheme in the individual authorities and increases the potential for compliance by shared or regional works promoters. Each participating authority in a common scheme would act independently in operating the scheme and would remain financially independent in terms of the fee structure
23. It is proposed the permit scheme being operated by the Council would be given the title of the South East Permit Scheme (SEPS). Applying a wider title than just the authority name enables other authorities in the region to join this common permit scheme in the future should they be interested. This approach has been used for various other permit schemes across the country and provides further opportunity for consistency across a region and thereby compliance by works promoters.
24. The SEPS has been prepared by representatives from both SCC and ESCC in accordance with the statutory duties in the TMA and the objectives are to:
 25. Provide an environment to help each of the Permit Authorities operating the SEPS to meet their network management duty,
 26. Support us in seeking to minimise disruption and inconvenience by encouraging good practices, mutual and collaborative working arrangements and a focus on co-ordination and getting it right,
 27. Encourage a high emphasis on safety for everyone including site operatives and all other road users with special emphasis on people with disabilities,
 28. Emphasise the need to minimise damage to the structure of the highway and all apparatus contained therein,
 29. Provide a common framework for all activity promoters who need to carry out their works in the applicable region,
 30. Treat all activities covered by the scheme and activity promoters on an equal basis.

31. In operating a permit scheme, officers will be required to consider the content and potential impact of permit applications from works promoters, and challenge or give approval to the application. In coming to a decision various aspects will be considered including, but not limited to, the following;
 - a. The road network capacity
 - b. The scope for collaborative working arrangements
 - c. The optimum timing of activities from all aspects
 - d. The effect on traffic, in particular, the need for temporary traffic restrictions or prohibitions
 - e. Appropriate techniques and arrangements, particularly at difficult road junctions and pinch points
 - f. The working arrangements required in protected and traffic sensitive streets, and streets with special engineering difficulties
32. Where there are identified difficulties, officers will discuss these with the works promoter and, where possible, agree an acceptable way forward. In doing so the Council may elect to include specific conditions in a permit to ensure the work is carried out in such a way as to minimise disruption and inconvenience particularly to local businesses and residents.
33. The SEPS will require that permit applications are necessary for all statutory authority promoted works being carried out on the highway. Given the constant volume of works being carried out across the network it is not feasible to apply the same level of scrutiny to every permit application that the council would receive. On this basis, and in accordance with other operational permit schemes, permit applications for the more disruptive works will receive more scrutiny and be charged a 'permit fee'.
34. Whilst SCC currently has officers reviewing road works notices under the present legislation, the increased scrutiny required for incoming permits will necessitate the recruitment of additional officers. This identified increase in resource level follows good practice by other authorities operating a successful permit scheme. Additional officer and system costs will be met by the fee income generated by a permit scheme and although we do not know the exact level of resource required at present it is estimated that an additional eight full time members of staff will be required to process permit applications as described. The additional resource requirement is subject to consultation outcomes and the DfT response and will be confirmed following the finalisation of the SEPS.
35. In order to proceed with the permit scheme proposal, the cost benefit of introducing a permit scheme was calculated. This was achieved by used traffic modelling software in order to determine the impact on traffic resulting from works on the highway. Based on the current levels of work, the estimated cost of congestion associated with road works was calculated at £98.8m per annum across the county. Estimations of the amount of works reduced through the implementation of the permits system have also been calculated through the use of evidence gathered as part of the review of the Kent Permit Scheme introduced in 2010. Based on current work levels of

over 40,000 per annum it is estimated that annual benefit of a 4.4% reduction in road works will be achieved by introducing a permit scheme in Surrey, which equates to a £6.7m saving in congestion per annum. This compares favourably with other permit schemes already in operation, such as the London permit scheme which reported approximately £2.7m in congestion saved in its first year (2010).

36. The timetable for introducing a Permit Scheme is to a great extent dependent on the DfT however SCC would try and implement the Permit Scheme as soon as possible. This is anticipated to be no later than January 2014. Based on the current DfT process the estimated start date for the scheme for SCC will be based on the following programme;
- a. Start of formal consultation – 28 November 2012,
 - b. Submission by ESCC & SCC to the DfT – March 2013
 - c. DfT approval anticipated – July 2013
 - d. DfT provision of Statutory Instrument anticipated – October 2013
 - e. Recruitment/Training/IT preparations* – July – Dec 2013
 - f. Implementation of the scheme* – Dec 2013

* subject to DfT timescales for giving scheme approval and issue of the statutory instrument.

CONSULTATION:

37. Prior to introduction of a permit scheme a full statutory consultation must be undertaken as required in the Traffic Management Act Permit Schemes (England) Regulations 2007. Informal consultation was carried out during summer 2012 and the finalised SEPS is currently undergoing a formal consultation phase, due to be completed 20 February 2013.
38. Formal Consultation is carried out with all interested parties lasting for a 12 week period and ends on 20 February 2013. The consultation is specifically targeted at key stakeholders, including;
- DfT
 - National Joint Utilities Group
 - Local Government Association
 - All Utility Companies who work in SCC
 - All neighbouring Authorities
 - All District and Borough Councils within SCC
 - All Parish Councils within SCC
 - Environment Agency
 - Disabled Persons Transport Advisory Committee
 - Royal Association For Deaf People
 - Royal National Institute for the Blind
39. Subject to the response from the formal consultation the permit scheme will be finalised for submission to the Secretary of State.

40. Over recent months the DfT has also been considering the implementation of permit schemes and in particular their operation in relation to the roll out of Broadband. This follows an announcement made in September 2012 from the Transport Minister Norman Baker who stressed that the operation of street works should not unduly hinder the progress of delivering the roll-out of superfast broadband, and that additional Guidance for future permit schemes would be provided to take this work forward. The additional guidance, issued on 15 January 2013 will also be considered in conjunction with the consultation response prior to finalising the scheme.

RISK MANAGEMENT AND IMPLICATIONS:

41. In addition to statutory duty requirements, the public have an expectation on the authority to efficiently manage road works. It is intended that the implementation of a permit scheme would enable SCC to make a more significant improvement in this area compared to continuing the current notification process.
42. Sufficient time will need to be allowed for prior to a go live date to ensure planning and resource provision are adequate to be able to implement a permit scheme successfully.

Financial and Value for Money Implications

43. The operation of the Permit Scheme will require SCC to employ additional staff to the Street Works team (current estimate x8 FTE), along with retraining of existing staff in both the Street works team and internal departments who are responsible for ordering works on the highway. Additional set up costs will also include revisions to IT systems and hardware required for the additional staff. The Cost Benefits Analysis completed for DfT submission estimates total scheme start up costs at £140,000.
44. It is anticipated that this annual expenditure will be covered by the permit charges levied against Statutory Undertakers for their approved activities on the Highway, including recovery of the scheme start up costs in year one of operation. The proposal should therefore be cost neutral for this service area and the annual recovery of costs will also contribute to corporate overhead costs. Authorities operating permit schemes are required to carry out an annual review of their permit fees, to ensure the scheme remains cost neutral, neither creating surplus income, nor creating budgetary pressure.
45. Authorities are required to complete the DfT's 'Permit Fee Matrix' as part of the formal submission of the scheme to the DfT. to calculate the level of each category of permit fee. This 'matrix' – a complex spreadsheet – derives the permit fees using; staff costs, a 'man hours' calculation of the officer time required to complete the additional scrutiny required to operate a permit scheme, and generic percentage rates to cover other operational costs applied to the scheme, such as IT provision. The DfT have set a Maximum fee applicable to each category of permit. Annual permit income for Surrey County Council is currently estimated at £1,137,605 per annum based on previous year's volume of works, multiplied by proposed permit fees by activity type.
46. The table below shows the Proposed SCC Permit fee levels, against the DfT maximum permitted fee and the year 1 Kent CC permit fees*;

| Street Category | Permit Type | SCC proposed fee | DfT Maximum Fee | Kent CC year 1 fee* |
|------------------------|---------------------|------------------|-----------------|---------------------|
| Cat 0-2 & TS Streets | Prov. Advance Auth. | £83 | £105 | £87 |
| Cat 0-2 & TS Streets | Major | £216 | £240 | £225 |
| Cat 0-2 & TS Streets | Standard | £127 | £130 | £130 |
| Cat 0-2 & TS Streets | Minor | £58 | £65 | £65 |
| Cat 0-2 & TS Streets | Immediate | £52 | £60 | £57 |
| Cat 3-4 Non TS Streets | Prov. Advance Auth. | £66 | £75 | £73 |
| Cat 3-4 Non TS Streets | Major | £141 | £150 | £146 |

*Note that Kent CC have confirmed that having reviewed their permit scheme fees, they intend to lower the fees for future years, having had surplus income in year 1 operation of their scheme.

47. A requirement of operating a permit scheme for street works is that the scheme should be cost neutral. It is also a requirement that annual financial reviews of the scheme are completed, comparing permit fee income against operating costs. Any year-on-year imbalance should be redressed by either increases or reductions in the level of permit fees levied in the subsequent year, as required.
48. Operation of a permit scheme does not reduce SCC's opportunity to apply charges for non compliance to Statutory Undertakers, such as over running works or defective reinstatements. The scheme introduces potential additional non compliance charges, such as breaching the conditions of a permit, however such income is dependent upon Statutory Undertaker performance and can be subject to fluctuation. An annual saving of £100,000 is estimated from 2014/15 against the wider potential of streetworks related non-compliance charges.
49. Income derived from completion of 'sample' on-site inspections of Statutory Undertaker's works is unaffected by the operation of a permit scheme. The capacity of the Streetworks Team to carry out compliance monitoring has recently been increased following the appointment of permanent and additional fixed term staff. In addition to driving performance improvement this monitoring should also assist in removing the current shortfalls in streetworks financial recovery.

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| Section 151 Officer Commentary |
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50. The introduction of a permit scheme is expected to be cost neutral to the Council, with costs (including set up costs and overheads) being recovered through permit charges. Fees will be reviewed and, if necessary, adjusted annually to ensure this is the case.

51. The introduction of a permit scheme creates the potential for additional non-compliance charges. Together with recent staffing changes within the Streetworks team, this is expected to make good the current income shortfall (£200,000) from 2013/14 onwards and potentially result in additional non-compliance income from 2014/15, currently estimated at £100,000 per year.

Legal Implications – Monitoring Officer

52. On becoming a Permit Authority, SCC may not cease to operate the scheme without first consulting all interested parties and then applying to the Secretary of State to revoke the scheme.
53. The authority will be scrutinised to ensure that our operation of the scheme shows parity between internal operations and those of external agencies such as Utility companies.

Equalities and Diversity

54. An equalities impact assessment has been carried out and is attached as **Appendix 2** to this report.
55. The key impact identified by the EIA is that fewer and safer work sites generally should result in; the elderly, pregnant women or those with a disability who may be less mobile, those people in wheelchairs or using buggies/pushchairs, or those who have limited vision, encountering fewer difficulties in using the highway.
56. No key negative impacts have been identified for people with protected characteristics.

Climate change/carbon emissions implications

57. A negative consequence of increasing road congestion is that it damages the environment. The main consequences are the impacts on air quality through the emission of greenhouse gases and the waste of valuable energy resources from vehicles waiting in traffic queues. Whilst the primary cause of this problem is the increasing number of road journeys by private vehicles causing the demand to travel to exceed the road network capacity at peak times of the day, the occurrence of works on the network exacerbates this by restricting the available capacity.
58. The SEPS scheme will have a positive impact on these environmental issues by minimising any loss of network capacity caused by street works in order to reduce the occurrence of congestion. This will be achieved by improved coordination between works promoters, better planning of works, placing conditions on how and when works take place and improved enforcement.

WHAT HAPPENS NEXT:

59. Timeline as follows:
- Consultation responses to the proposed SEPS will be reviewed and the document amended where considered appropriate.
 - The finalised SEPS and supporting documents will be submitted to the DfT.

- Following approval from the DfT (anticipated July 21013), preparation will commence and implementation date agreed and formally published.
 - Implementation of the permit scheme, anticipated to be no later than Jan 2014.
 - Annual review of the permit scheme, and adjustment as necessary.
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Consulted:

Assistant Director for Highways, Jason Russell
Strategic Director for Environment & Infrastructure, Trevor Pugh
Environment & Transport Select Committee, Utilities Task Group Members
Traffic & Streetworks Team
Utility companies that work across the region,
Local authorities in the South East region
SCC highway works promoters

Appendices:

Appendix 1 – Report of the Utilities Task Group
Appendix 2 - EIA

Sources/background papers:

- Traffic Management Act 2004
 - Traffic Management Permit Schemes (England) Regulations
 - New Roads & Streetworks Act 1991
 - London Permit Scheme
 - Proposed South East Permit Scheme
 - Kent Permit Scheme Annual Report Feb 2010 to Jan 2011
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